

**Before the
ILLINOIS COMMERCE COMMISSION**

SCC Communications Corp. and)
Illinois Bell Telephone Company)
d/b/a Ameritech Illinois)
)
Petition of SCC Communications Corp.)
For Review of an Arbitrated)
Interconnection Agreement)

Docket No. _____

**PETITION OF SCC COMMUNICATIONS CORP. FOR
REVIEW OF AN ARBITRATED INTERCONNECTION AGREEMENT**

Comes now SCC Communications Corp. (“SCC”) and respectfully petitions the Illinois Commerce Commission (“Commission”) for review of the arbitrated interconnection agreement between the parties. The agreement, which is being filed herewith, is consistent with and conforms to the Commission’s Arbitration Decision in *In the Matter of the Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Docket No. 00-0769 (Illinois Commerce Commission, March 21, 2001) (“Arbitration Decision”).

The Arbitration Decision ordered the parties to file, within fifteen days from the date of service, a complete interconnection agreement for Commission approval pursuant to Section 252(e) of the Telecommunications Act of 1996 (“Act”). The due date for such a filing, therefore, is today, April 9, 2001. On March 28, 2001, counsel for SCC contacted counsel for Illinois Bell Telephone Company d/b/a Ameritech Illinois (“Ameritech Illinois”) to coordinate the preparation of a conforming interconnection agreement. See Affidavit of David A. Huberman ¶ 4 (“Huberman Aff.”). Counsel for Ameritech Illinois responded by referring SCC to Ameritech Illinois’ negotiating team and in-house attorneys. See id. ¶ 5. Ameritech Illinois’ counsel’s

response copied Ameritech Illinois' negotiators and in-house attorneys, putting them on notice of SCC's inquiry and the parties' obligations under the Arbitration Decision. See id.

Having not received any response from Ameritech Illinois, counsel for SCC contacted Ameritech Illinois' counsel, in-house attorneys, and negotiating team again on April 2, 2001. See id. ¶ 6. SCC's April 2, 2001 correspondence stated that Ameritech Illinois had not contacted SCC to discuss preparation of a conforming interconnection agreement, nor had Ameritech Illinois responded to pricing information provided by SCC on March 23, 2001 as part of the parties' continuing negotiations. See id. Noting that the filing deadline prescribed by the Arbitration Decision was one week away, counsel for SCC requested Ameritech Illinois' representatives contact SCC "as soon as possible" to discuss these issues. See id. Ameritech Illinois did not contact SCC until approximately 3:20 p.m. (MST) on April 6, 2001, at which time Ameritech Illinois provided SCC with incomplete pricing information via e-mail. See id. ¶ 7. Ameritech Illinois' correspondence did not reference the Arbitration Decision or the parties' obligation to file a conforming interconnection agreement thereunder. See id. ¶ 7.

On Monday, April 9, 2001, at approximately 11:00 a.m. (MST), counsel for Ameritech Illinois contacted counsel for SCC to negotiate an extension of time for filing the conforming interconnection agreement. See id. ¶ 8. Counsel for Ameritech Illinois neither discussed nor offered to discuss the substance of the conforming interconnection agreement. See id. ¶ _____. Counsel for Ameritech Illinois contacted counsel for SCC again at approximately 2:30 p.m. (MST) on April 9, 2001. See id. ¶ 9. Counsel for Ameritech Illinois was joined on the call by the lead negotiator assigned by Ameritech Illinois to the SCC-Ameritech Illinois interconnection negotiations. See id. Rather than discuss the substance of the conforming interconnection agreement, Ameritech Illinois' lead negotiator instead requested clarification as to the type of

interconnection agreement SCC was seeking. See id. Counsel for SCC explained that SCC was seeking exactly what it thought it had been negotiating over the past year – a 13-state regional interconnection agreement applicable to Ameritech Illinois and its affiliates operating in the 13-state region of Ameritech Illinois’ parent, SBC Communications Inc. See id.

Ameritech Illinois’ refusal to prepare a conforming interconnection agreement with SCC places SCC at peril of violating the Commission’s Arbitration Decision. Faced with this prospect and with Ameritech Illinois’ continued recalcitrance, SCC files the foregoing Petition.

Pursuant to Section 252(b)(5) of the Act,

[t]he refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, or the State commission shall be considered a failure to negotiate in good faith.

47 U.S.C. § 252(b)(5) (2000). In carrying out its function as an arbitrator, the Commission required the parties to file a conforming interconnection agreement by April 9, 2001. Ameritech Illinois’ refusal to work with SCC to prepare such an agreement (or, for that matter, even to contact SCC about the substance of the parties’ agreement until the afternoon of Friday, April 6th) hinders the Commission’s efforts, constitutes a failure to cooperate with the Commission in carrying out its function as an arbitrator, and is a failure to negotiate in good faith.

In addition, Ameritech Illinois’ continued refusal to reach an interconnection agreement with SCC “knowingly impede[s] the development of competition in [the] telecommunications service market.” Public Utilities Act § 13-514. Specifically, among other things, Ameritech Illinois is “unreasonably refusing or delaying interconnections or providing inferior connections to another telecommunications carrier” and “unreasonably acting or failing to act in a manner that has a substantial adverse effect on the ability of another telecommunications carrier to

provide service to its customers.” Id. §§ 13-514(1) & (6). Ameritech Illinois’ actions are prohibited expressly by the Public Utilities Act, and they constitute “per se impediments to the development of competition.” Id. § 13-514. Ameritech Illinois, therefore, should be subject to penalties prescribed by Section 13-516 of the Public Utilities Act. In addition, SCC reserves any and all rights to seek other remedies permitted by law against Ameritech Illinois.

Conclusion

The tortured history of the parties interconnection negotiations is well documented in Docket No. 00-0769, the arbitration proceeding involving the parties. SCC requested that Ameritech Illinois enter into interconnection negotiations on March 28, 2000, and SCC negotiated with Ameritech Illinois in good faith for more than eight months before filing a petition for arbitration with the Commission. SCC continued to negotiate in good faith with Ameritech Illinois during the pendency of Docket No. 00-0769 despite Ameritech Illinois numerous attempts to derail the negotiation and arbitration processes. Finally, nearly one year after SCC first requested interconnection from Ameritech Illinois, the Commission issued its Arbitration Decision, which confirmed that SCC is entitled to interconnection with Ameritech Illinois. Through delay and recalcitrance, Ameritech Illinois succeeded in denying SCC interconnection, thereby preventing SCC from entering the market in Illinois, for one year. Ameritech Illinois now seeks to cause even more delay by refusing to cooperate with SCC to fashion a conforming interconnection agreement, in direct violation of the Arbitration Decision. Indeed, Ameritech Illinois’ eleventh-hour contacts with SCC were designed not to discuss issues of substance and finalize a conforming interconnection agreement, but to interpose additional delay. The Commission should not countenance such anti-competitive behavior.

Wherefore, SCC respectfully requests that the Commission review the filed interconnection agreement and approve it under Section 252(e) of the Telecommunications Act of 1996. SCC also requests that the Commission impose upon Ameritech Illinois appropriate penalties for its deliberate refusal to cooperate with SCC and provide SCC interconnection.

Respectfully submitted,

SCC Communications Corp.

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Dated: April 9, 2001

CERTIFICATE OF SERVICE

I certify that I caused copies of the foregoing Petition of SCC Communications Corp. for Review of an Arbitrated Interconnection Agreement to be served on this 9th day of April 2001 on the following persons by the indicated means:

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